

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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GABRIEL G. H. MIDALGO,

Plaintiff,

DECISION AND ORDER

05-CV-6004L

v.

SGT. KEOUGH, et al.,

Defendants.

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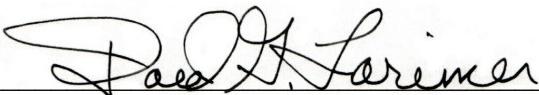
Plaintiff, Gabriel Midalgo, has moved for a default judgment against defendants Lt. Erickson and C.O. Hollering. The motion is denied.

In order to enter a default judgment, a court must have jurisdiction over the parties, which requires that the parties be served with process. 10A Wright, Miller & Kane, Federal Practice & Procedure: Civil 3d § 2682 (1998). *See, e.g., Smith v. Galen of Kansas, Inc.*, No. CIV.A. 01-2475, 2002 WL 500579, at \*1 (D.Kan. Mar. 27, 2002). Here, the record shows that defendants Erickson and Hollering have not yet been served with the summons and complaint. Plaintiff's motion must therefore be denied.

**CONCLUSION**

Plaintiff's motion for a default judgment against defendants Lt. Erickson and C.O. Hollering (Dkt. #36) is denied.

IT IS SO ORDERED.



DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
February 6, 2006.